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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,362	02/20/2004	Shiping Wang	029714.00017	2424

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EXAMINER	
AHMED, HASAN SYED	

ART UNIT	PAPER NUMBER
1615	

NOTIFICATION DATE	DELIVERY MODE
12/15/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
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IPMatters@arentfox.com

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/783,362	**Applicant(s)** WANG ET AL.	
	Examiner HASAN S. AHMED	**Art Unit** 1615	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *6* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Humera N. Sheikh/
Primary Examiner, Art Unit 1615

Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 11. does NOT place the application in condition for allowance because: Applicants present two main arguments in the after-final response.

First, applicants argue that "[a]ll of the slurries described in Modak contain starch or powder lubricants such as cornstarch, hydroxyethylcellulose, and zinc oxide." See page 11, last two lines. Applicants further argue that the calculation of hydroxyethylcellulose in the Final rejection was incorrect and that the correct concentraiton is 20mg of hydroxyethylcellulose per 1000mg of water. Examiner concedes that the calculation in the final rejection was incorrect; however, the broader point being made in the Final rejection was that when Modak dips the partially formed gloves into the antiinfective slurry of claim 4, it is not clear that the amount of hydroxyethylcellulose on each glove that is dipped into a solution comprising 2% hydroxyethylcellulose will amount to 2mg or more (the amount of starch/powder permitted on each glove by the instant specification). Importantly, the instant specification does not define hydroxyethylcellulose as a "powder." Applicants have not provided any evidence to indicate that hydroxyethylcelluose fits within the definition of a "powder" in light of the instant specification. Applicants provided supporting documents in the resposne filed on 29 September 2009 regarding powdered gloves; while cornstarch is repeatedly given as an example of a powder in gloves, none of these documents suggest that hydoxyethylcellulose is a powder within the context of latex gloves. Thus, giving the instant claims their broadest reasonable interpretation in light of the specification, at least example 4 of Modak provides a glove free of powder and starch. As indicated in the rejection, example 4 does not recite cornstarch and zinc oxide is disclosed as an optional ingredient.

Applicants' second argument is that the antimicrobial composition of Dresdner is not on the "outside surface" as "outside surface" is defined in the instant specification. Examiner respectfully submits that the instant specification clearly defines "outside surface" as "the portion of the glove that comes into contact with other objects such as patients, medical instrumetns, table tops, or counters." (See page 11). As explained in the Final rejection, Dresdner explicitly teaches the surface which has the antimicrobial composition as the surface which comes into contact with other objects such as medical instruments (see col. 19, lines 59-678 and Fig 2A and 2B). Thus, the teaching of Dresdner fits within the plain meaning of "outside surface" provided in the instant specification. Applicants argue that the instant specification states that minimization or reduction of crosscontaminiation as a resutlt of multiple contacts is the purpose for placing the antimicrobial composition on the outside surface. However, a difference in objectives, if any, does not defeat the case for obviousness because, as MPEP § 2144 states, the "reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972) ...; In re Dillon, 919 F.2d 688, 16 USPQ2d 1897 (Fed. Cir. 1990), cert. denied, 500 U.S. 904 (1991) ... ." .